

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 7/2/2024

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VIAHART, LLC,	:	
	:	
Plaintiff,	:	1:20-cv-9943-GHW
	:	
-v-	:	<u>ORDER</u>
	:	
CREATIVE KIDS ONLINE, LLC, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	
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GREGORY H. WOODS, United States District Judge:		

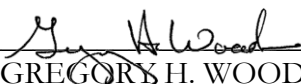
A jury trial in this matter is scheduled to begin on July 8, 2024. At the telephonic conference held on June 18, 2024, the Court ruled on the parties' various motions in limine. *See* Dkt. No. 253. During the conference, the Court, in relevant part, ruled as follows: (1) Plaintiff is entitled to an adverse inference jury instruction that permits the jury to infer that Defendants used "brain flakes" as part of the keywords used to list their products on Google; (2) Defendants are not barred from introducing the July 21, 2020 Tweet as evidence, but a limiting instruction may be required to clarify that the statement itself is not a defamatory statement; (3) the jury may impute the actions of one Defendant to the other Defendants; and (4) the jury should hold all Defendants jointly and severally liable for any liability and damages found on Plaintiff's claims. No party has yet suggested proposed instructions responsive to the Court's rulings.

Plaintiff is directed to submit by July 5, 2024 at 12:00 p.m. proposed jury instructions addressing the above rulings and a proposal as to when each instruction should be given to the jury during the course of trial.

Defendants' opposition is due no later than July 8, 2024 at 12:00 p.m. The parties should also be prepared to discuss the content and language of any proposed instructions during the period prior to the arrival of the venire on July 8, 2024.

SO ORDERED.

Dated: July 2, 2024
New York, New York



GREGORY H. WOODS
United States District Judge